

BARTON BARTON & PLOTKIN LLP

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Attorneys for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Angela DiPilato,

Plaintiff,

-against-

7-Eleven, Inc., Jeanne Lynch, Martina Hagler
and Arthur Rubinett,

Defendants.

07 cv 7636 (CLB)
ECF Case

**NOTICE TO PRO SE LITIGANT
WHO OPPOSES A RULE 12
MOTION SUPPORTED BY
MATTERS OUTSIDE THE
PLEADINGS**

The defendants in this case have moved to dismiss or for judgment on the pleadings pursuant to Rule 12(b) or 12(c) of the Federal Rules of Civil Procedure, and have submitted additional written materials. This means that the defendants have asked the court to decide this case without a trial, based on these written materials. You are warned that the Court may treat this motion as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. For this reason, THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION by filing sworn affidavits or other papers as required by Rule 56(e). An affidavit is a sworn statement of fact based on personal knowledge that would be admissible in evidence at trial. The full text of Rule 56 of the Federal Rules of Civil Procedure is attached.

In short, Rule 56 provides that you may NOT oppose the defendants' motion simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as

witness statements or documents, countering the facts asserted by the defendants and raising issues of fact for trial. Any witness statements must be in the form of affidavits. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendants' motion.

If you do not respond to the motion on time with affidavits or documentary evidence contradicting the facts asserted by the defendants, the court may accept defendants' factual assertions as true. Judgment may then be entered in defendants' favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.

Dated: September 17, 2007

BARTON BARTON & PLOTKIN LLP

By: /s/ Thomas P. Giuffra
Thomas P. Giuffra (TG 1274)

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